

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:

WESTON *et al.*

Serial No: 09/476,935

Filed: December 30, 1999

For: System and Method for Implementing
Foreign Exchange Currency Forwards

Art Unit: 3624

Examiner: Charles R. Kyle

Mail Stop Appeal Brief – Patents
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

APPLICANTS' REPLY BRIEF

Sir:

This Reply Brief addresses the Examiner's treatment in the Examiner's Answer dated June 23, 2006 of *Silverman et al.* regarding the limitation in independent claims 1, 10, 11, 21, 24, 25 and 26 of "at least one temporary restriction settable by a [the] first trader with respect to at least one trader and when set automatically expiring at or after a predetermined time or time period."

Silverman et al. involves two distinct but related credit values. One is a "credit limit" value which is set by a trader and does not change or expire, but may be reset by the trader. The other is an "available credit" (or "credit availability") value. The two are distinct in that the available credit value changes based on trade-related activity, while unilateral and bilateral credit limits remain set until reset by a trader. The two are related in that the available credit value starts at the set unilateral credit limit or the bilateral credit limit derived from set unilateral credit

limits, but thereafter may change based on trade-related activity. The Examiner's Answer may not have properly treated the distinct nature of these two values.

As pointed out in the Applicants' Brief, *Silverman et al.* discloses that a trading entity may set a unilateral or one-way credit limit for each other trading entity. As between two trading entities, A and B, each sets a unilateral credit limit for the other trading entity, and the lower of the two unilateral credit limits can be set as a bilateral credit limit between trading entities A and B. Unilateral credit limits set by parties, and bilateral credit limits that result from pairs of unilateral credit limits set by the parties ***do not expire – they remain in effect until a party resets a unilateral credit limit.*** Contrary to the Examiner's suggestion on page 4 of the Answer, a credit limit (a trading configuration set by a trader) does not automatically expire after a predetermined time period, e.g., at the end of the business day. As discussed below, available credit may change, e.g., be automatically reset to a previously set credit limit, e.g., at the end of the business day.

Unilateral and bilateral credit limits in *Silverman et al.* remain set even while a related available credit value changes. Therefore, unilateral and bilateral credit limits *per se*, which are set by the parties and are not temporary because they do not expire, do not correspond to the at least one ***temporary*** restriction settable by a first trader with respect to at least one trader and when set ***automatically expiring*** at or after a predetermined time or time period.

It appears that the Examiner's Answer does not disagree that credit limits set by the parties, though resettable, are not temporary and do not expire, and accordingly do not correspond to the at least one temporary restriction settable by a first trader with respect to at least one trader and when set automatically expiring at or after a predetermined time or time period.

However, the Examiner's position appears to be, as explained on pages 9-11 of the Answer, that a change in the available credit value corresponds to the limitation in the independent claims of "at least one temporary restriction settable by a [the] first trader with respect to at least one trader and when set automatically expiring at or after a predetermined time or time period." Specifically, the Answer states, at page 9:

[T]he Examiner interprets the wax and wane of temporary credit limits among traders in *Silverman* as temporary restrictions among traders, which expire at a predetermined time, that predetermined time being that time at which a trader (trading entity) recovers sufficient counter-party credit to again trade with a counter-party.

Here, the Examiner appears to be referring to the available credit value.

At the same time, the Examiner seems to be blurring the distinction between a credit limit value and an available credit value, as, for example, suggested by the following excerpts from pages 9 and 10 of the Answer:

At third paragraph, page 9, Appellants comment on *Silverman* but do not recognize the completeness of its disclosure. Appellants assert that **credit limit values** [Applicants there are referring to credit limit values and not to available credit values] are not set temporarily by a trading entity (trader), but are selected at, for example, the start of a trading day, suggesting rigidity of the limits. (Emphasis supplied.)

Appellants' statement that limits are also automatically changed provides a segue to discuss the temporary nature of the trading restrictions imposed by the traders of *Silverman*. At page 9, last paragraph to page 10, Appellants again argue rigidity of *Silverman* by stating that *Silverman* does not disclose automatic expiration of a restriction at a predetermined time. A broad reading of this language is that the predetermined time is the time at which a party recovers sufficient credit to trade with counter-party; dynamic credit limits are implicit in this reading.

Here, the Examiner appears to contend that credit limit values are dynamic and temporary. As pointed out below, they may be dynamic, but they are not temporary.

In the passage quoted above, the Examiner uses the term “dynamic credit limits,” which does not appear in *Silverman et al.* Instead, *Silverman et al.* refers to a keystation book that is “dynamically updated,” a depth of the keystation book that may be “dynamically changed,” the market view is “dynamically updated.” In concluding that *Silverman et al.* disclosed dynamic credit limits, the Examiner quotes from col. 3, lines 4-7 of *Silverman et al.*, as follows:

The trader’s display is also continuously updated as new information, for example, bids, offers, or credit limits, are entered into the system and as credit limits change due to transactions between parties.

While the passage quoted above from *Silverman et al.* refers to “credit limits” [that] change due to transactions between the parties “(col. 3, lines 4-7), it should be clear that *Silverman et al.* there is referring to available credit, and not credit limits. On the other hand, *Silverman et al.* correctly refers to credit limits in the preceding phrase of the quote “bids, offers, or credit limits, are entered into the system.”

However, U.S. Patent No. 5,136,501 (*Silverman and Keller*), discussed in the Background section of *Silverman et al.*, refers to counterparty credit limits that may be “dynamically updated,” and states (see col. 2, lines 58-64):

The individual keystations may reset all credit limits or dynamically vary individual credit limits with such variations sometimes enabling previously inhibited trades to then go forward because the new resulting anonymous gross counterparty credit limit then may no longer be exceeded.

This seems to indicate that credit limits may be changed by traders at keystations, and in that sense, the credit limits are dynamically variable, or dynamic, but nonetheless they are settable by a trading party, are not temporary, and remain until reset.

The following discussion treats the “credit available” value as distinct, in the sense referred to above, from a unilateral or bilateral credit limit. As discussed in Applicants’ Appeal

Brief, *Silverman et al.*'s available credit is set automatically by a computer, and not by a party, for both display screening purposes and trading purposes. For example, with respect to screening, *Silverman et al.* states at col. 5, lines 48-55 and col. 11, lines 5-8, respectively:

Each IN [intelligent node 102, 103..., each of which includes a processor 203] receives from the host 101 the full order book and a subset of the credit profile stored in the host 101. The credit information subset includes all information that the IN needs to determine both unilateral and bilateral **credit availability** between its assigned KSs [keystations] and other potential counterparties in the system. Thus, the full bilateral credit model for each trading entity, including real credit values in real time, is transmitted from the host 101 to each IN. (Emphasis supplied.)

The credit availability filtering or screening function performed by the INs in the system according to the present invention includes both unilateral and bilateral credit availability screening.

Silverman et al. clearly uses a computer to determine available credit values for purposes of displaying orders to keystations KS.

With respect to trading, *Silverman et al.* states at col. 5, lines 34-37 and 38-42, and col. 6, lines 24-26, respectively:

Also, as trading progresses and trades are executed between trading entities, the host 101 automatically updates its credit profile for the affected trading entities accordingly.

The intelligent nodes (INs) receive both order book and credit information from the host on a continuous basis. The INs use this information to perform the calculations necessary to generate a unilaterally and/or bilaterally credit-filtered view of the market for each of its assigned KSs.

This view of the market is dynamically updated by processor 203 [part of an IN] as the order book and credit limits change in the course of trading activities.

Thus, the "available credit" of any party is not set by a trader.

The Examiner states on page 9 of the Answer:

In *Silverman*, a trader is prohibited from trading with another party when the party imposes a credit limit on the trader and the trader's available credit is less than the credit limit. Such trade prohibition begins and ends with transactions among parties in the market.

The available credit of a party may change based on a trade involving that party, but the party does not set the available credit, which is set automatically in *Silverman et al.*, clearly, by a computer. Traders enter orders and a computer executes trades, neither of which is “settable” by a trader. To consider available credit to be *settable* by a trader, which it is not, would be, respectfully, convoluted. In this connection, it should be pointed out that *Silverman et al.* relates to an anonymous trading system (see Background of the Invention, col. 6, lines 41-46 and col. 7, lines 64-67), where parties do not know who they are dealing with until after the parties have decided to proceed with the transaction. Therefore, it is not clear how a party would select another party to set available credit with respect to that party (who is anonymous).

Therefore, the “credit available” value also does not correspond to “at least one temporary restriction *settable by a [the] first trader* with respect to at least one trader and when set automatically expiring at or after a predetermined time or time period.”

Since neither “credit limits” nor “available credit” in *Silverman et al.* corresponds to the limitation in the independent claims of “at least one temporary restriction settable by a [the] first trader with respect to at least one trader and when set automatically expiring at or after a predetermined time or time period,” *Silverman et al.* combined with Potter et al. does not disclose or render obvious the inventions claimed in the independent claims (and the dependent claims).


In view of the foregoing, the Board should, and is requested to, reverse the rejections of all pending claims (claims 1, 7, 9-11, 19, 21 and 24-26).

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Customer No. 29858

Brown Raysman Millstein Felder & Steiner LLP
900 Third Avenue
New York, NY 10022
Tel. (212) 895-2000
Fax (212) 895-2900

Respectfully submitted,


Frank J. DeRosa
Reg. No. 26,543
Attorney for Applicants